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IN THE SUPREME COURT OF THE UNITED STATES
FALL TERM, NINETEEN HUNDRED AND EIGHTY-TWO

CASE NUMBER

ERNEST WADERE SHAHID, JR.,
PETITIONER.

versus

STATE OF FLORIDA,
RESPONDENT.

APPLICATION FOR BAIL PENDING CERTIORARI

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To the Honorable Lewis F. Powell, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice of the Eleventh Circuit:

1. Applicant was convicted on March 16, 1981, on one (1) count of "Trafficking In Cocaine" (A. 2) and one (1) count of "Possession of Hashish" (A. 1) in the First Judicial Circuit Court in and for Okaloosa County, Florida. On April 10, 1981, he was sentenced to thirty-five years imprisonment and committed to the Florida Department of Corrections (A. 51)

2. The trial court established the Applicant's bail at one-hundred thousand dollars ($100,000.00) on the foregoing charges. The Applicant has been barred from

seeking post trial release on the foregoing bail by his surrender of his right to bail as one of the conditions of his "plea agreement" with the State of Florida (A. 8-9). The "plea agreement" was subsequently violated by the State of Florida by the prosecutor's failure to stand mute at sentencing (A. 62-63).

3. The Applicant is not an extraordinary bail risk. He has been placed on bail on three (3) prior occasions and he has never forfeited a bond or been cited for failure to appear (A. 22-23). The Applicant maintains a residence with his father in Destin, Florida, where he has lived for the majority for his thirty-nine (39) years (A. 23). The Applicant has no prior history of violence and he will not be a threat to the public if released on bail pending certiorari (A. 22-23).

4. The questions being raised in the Petition For Writ Of Certiorari are substantial in nature. Those questions are: 1) the denial of "due process" and "equal protection" of law by Florida's First District Court of Appeals' decision in Shahid v. State, which expressly conflicts with this Court's decision in Santobello v. New York, 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed.2d 427 (1971), and 2) the constitutionality of Florida Rules of Criminal Procedure 3.171 and 3.172, which circumvents the safeguards erected by this Court in Santobello v. New York, supra, to protect the rights of defendants who enter into the plea bargaining process.

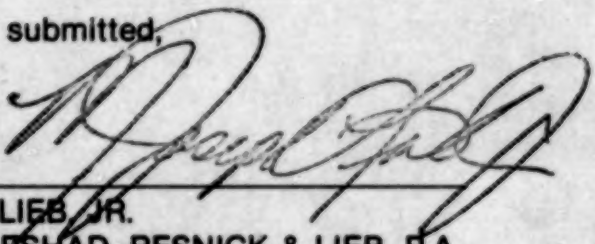
5. There has been no claim by the State of Florida that the foregoing points are frivolous or taken in bad faith for the purpose of delay. Indeed, there can be no such claim since the position taken by the First District Court of Appeals of Florida in the case sub judice is

in express conflict with the position taken by the Court in an identical fact situation.

6. There has been no delay in prosecuting the Applicant's appeal and in filing this Petition For Writ Of Certiorari, and the Applicant's admission to bail will in no way prolong the proceedings before this Court.

7. Wherefore, the Applicant prays that he may be admitted to bail pending certiorari in a sum not to exceed one-hundred thousand dollars ($100,000.00).

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing Application For Bail Pending Certiorari, upon the Honorable Jim Smith, Attorney General, Florida Department of Legal Affairs, Capitol Building, Tallahassee, Florida 32304, by placing same in a sealed postage prepaid envelope and depositing it in the United States Mail on this 23rd day of July 1982.

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